



**ARTICLE 25 OF THE COUNCIL OF EUROPE FRAMEWORK
CONVENTION FOR THE PROTECTION OF NATIONAL
MINORITIES**

PAVEE POINT TRAVELLER'S CENTRE

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INTRODUCTION

In September 2001 the Irish Government distributed its definitive copy of the Draft Report Pursuant to Article 25 of the Council of Europe Framework Convention for the Protection of National Minorities. Pavee Point Traveller's Centre, in conjunction with the Irish Traveller Movement, responded to the report raising a number of concerns, apart from specific inaccuracies, which in large part have been dealt with by the redraft, Pavee Point is seriously concerned with other aspects of the report. Critically, the final report contains concepts and analysis that is flawed, while fundamentally, Pavee Point feels that it does not reflect the situation for Irish Travellers.

This report seeks to provide an overview of some of Pavee Point's specific concerns on the issues as they were presented within the Irish Governmental report, while attempting to reflect the situation for Irish Travellers under the headings of Culture and Ethnicity, Discrimination, Accommodation, Education, Health, Economic Activity, Empowerment, and Diversity within the Traveller Community.

To place this document and the Irish Governmental report within a context, these appear at a time when a number of institutional and legislative changes in relation to equality and discrimination have been implemented that have the capacity to improve the situation of Travellers in Ireland. However, the reality on the ground for Travellers is that little has improved and in some areas the situation for Travellers has actually deteriorated.

These reports also appears at a time when Social Partnership has been the focus of the government and an agenda that has taken considerable energy from the community sector yielding varying results. The most recent legislative developments in relation to Travellers (and accommodation), the Housing (Miscellaneous Provisions) Act, 2002 have been produced in direct contravention of the partnership approach, which was painstakingly developed over time, as well as contravening the spirit, if not the letter, of recent Equality Legislation. (See Accommodation Section).

IRISH GOVERNMENTAL REPORT

We feel that within the Irish Governmental Report, there is little or no analysis of the policies/initiatives listed. There is no reference to their level of implementation, effectiveness and most importantly the outcomes they have achieved. The emphasis of the report, outlining the government polices and programmes, does not provide a picture of the actual experience of Travellers in Ireland, in fact the context and experience of Travellers living in Ireland is excluded. For example the report make no reference to the outcomes for Travellers participating in the partnership processes. There are serious issues and concerns re the outcomes from the partnership processes and the resourcing of Travellers and Traveller organisations re partnership and negotiation.

DATA COLLECTION AND DISAGGREGATION

The absence of current disaggregated data on a variety of socio-economic issues including, Traveller health status, educational status, access to employment, accommodation, and service provision is an issue that Pavee Point has been raising at local and national level for a number of years. The Irish Government has made a commitment to the collection of disaggregated data in the current national programme, the Programme for Prosperity and Fairness, but to date there has been very little progress on this issue, with a resistance to collect this information appropriately at all levels. For example the national census, which was held in April 2002, only asked Travellers to identify themselves, rather than including a question that identified the ethnicity of all respondents.

It is only with the collection and collation of information re ethnicity, within an equality framework, that the notion of promoting a human rights culture or tackling issues such as racism and discrimination can be achieved. All agencies and service providers should collect this information, using trained staff and promoting an information strategy re the value and need for such as exercise.

There is a need for the Irish Government to acknowledge the need for such information and implement their own commitments in relation to the collection of this data in order to develop, plan and deliver services as well as monitor the outcome for specific communities, particular minority ethnic groups.

CULTURE AND ETHNICITY

Throughout the Irish Governmental Report the discussion and reference to culture is simplistic and flawed. The report starts in a confused manner suggesting the government acceptance of the right to Traveller cultural difference but no explicit reference to ethnicity.

Throughout the report there are also references that imply the understanding is that Travellers can choose to be Travellers, or conversely chose not to be. How do you disassociate from being a member of a minority ethnic group? What is the association between being a Traveller and the Supreme Court ruling that there is a constitutional right to disassociate as well as associate? This illustrates a confused and weak understanding of ethnicity. Being a Traveller is not comparable to being in a union or organisation. While some Travellers may deny or hide their Traveller ethnicity this is an extremely complex issue that cannot be described in simplistic terms. There is no freedom or choice to disassociate if someone has to deny that they are a Traveller to gain or remain in employment.

In other instances Traveller culture is equated to accommodation status. This too is also simplistic, while accommodation choices are a very visible aspect of Traveller culture being a Traveller amounts to much more. Culture is how people live their lives in every way, which includes a shared history and identity. Travellers have a distinct language, way of organising work and family, particular religious and cultural

beliefs and identify themselves and are identified by others as Travellers, even when not living in a caravan or on a site.

Centrally, cultural diversity is not fully recognised in Irish State policy. Traveller issues are primarily pigeon holed in specific sections of policy, which result in poor outcomes for Travellers. In effect this means that while Travellers have rights as Irish citizens including the right not to be discriminated against, they do not have an acknowledged right to their identity as Travellers.

DISCRIMINATION

Throughout the Irish Governmental Report there are references to there being no law preventing or prohibiting Travellers from accessing services and goods but there is indirect and direct discrimination regardless. This notion of discrimination is minimalist. It may be correct to say there is no law to prevent Travellers from accessing services and goods, but the state is negligent in its role as the protector of Traveller rights to access goods and services and be free from discrimination. Travellers rights are not promoted, little attempt is made to assure that they are achieved, at a time when Travellers experience significant levels of both direct and indirect discrimination.

The experience of discrimination is still a daily occurrence for many Travellers. In a recent independent national survey conducted with over 500 Travellers, Travellers reported having experienced the following levels of discrimination:

Pub owners:	71%	Dept. of Social Welfare	26%	Cinemas	12%
Discos/clubs	40%	Schools	25%	Settled work colleagues	11%
Gardai	38%	Employers	15%	Banks and Financial inst.	7%
Shop Owners	37%	Courts	13%	Tax authorities	5%
Local Authorities	33%	Hospitals	13%	Church organisations	3% ¹

The introduction of the Employment Equality Act, 1998 and the Equal Status Act 2000 aimed at tackling discrimination in the work place and in access to goods and services has been welcomed. Pavee Point also welcome the ratification of the UN Convention on the Elimination of All Forms of Racism. At this stage the legislation is still relatively new and therefore it is too early to be definitive about its effectiveness.

In terms of a change of behaviour from employers and those in charge of providing goods and services in light of the legislation, Travellers are reporting a mixed response. At this stage more than half of the complaints made to the Office of the Directorate of Equality Investigations in relation to the Equal Status Act, (the act that prohibits discrimination in relation to good and services) have been made by Travellers,

¹ Citizen Traveller Survey of Travellers, December 2000 Behaviour and Attitudes Research

many of whom have won their cases. It appears that Travellers are asserting their rights in this regard. Interestingly, there has been a negative response from some service providers to the legislation and the consequences of discriminatory practices for themselves, notably the Vintners, whose record in this area has been particularly poor (see above). Recently the government appears to have sought to undermine the Equal Status Act, by tasking the Commission on Liquor Licensing, a body made up of Vintner and business interests, rather than the Equality Authority, a body charged with working towards the elimination of discrimination, with reviewing the Equal Status Act.

Conversely the take up of cases in relation to discrimination in employment has been very low. To some extent there is a lack of faith in the power of legislation alone to tackle difficulties with discrimination in the labour market. (*Vacant Jobs... Job Vacancies, Pavee Point* 2001). But there may also be issues relating to the relatively recent phenomenon of Travellers entering the mainstream labour market and the consequences of challenging discrimination in the labour market, i.e. an area that is fundamental to the capacity of an individual or family to make a living.

Even at this early stage it is possible to identify improvements that are needed when the legislation comes up for review. These include:

- The amendment of the legislation to take account of the European Union Race Directive.
- The abolition of the two month time limit for the bringing forward of complaints under the legislation to bring it into line with more common legal practice in relation to time limits.
- Amendments that would take account of the literacy levels amongst the Traveller community.
- The legislation should allow for people to go straight to the Directorate of Equality Investigations with their complaints rather than insisting that they first make a formal written complaint directly to the person against whom they are complaining.
- Section 15 which allows a landlord or service provider to discriminate in circumstances which would lead him or her – being a reasonable person – to believe that there was a substantial risk of criminal or disorderly behaviour or damage to property, could for example, result in a landlord refusing to rent a flat to a black person if they fear that the other tenants would assault the black person. It is the view of Traveller organisations that this is a form of institutional racism and this section should be amended at the first available opportunity.

ACCOMMODATION

Traveller accommodation is in crisis. In 1998 the Government introduced the Housing (Traveller Accommodation) Act 1998. This act set out the need for each local authority to develop a Traveller Accommodation Programme. The act also provided for consultation mechanisms with Travellers and Traveller organisations. The act also provides local authorities with increased powers of eviction. In response to the Act each local authority produced their Traveller Accommodation plans in March 2000.

Despite these legislative and institutional changes the reality is that the situation for Travellers with regards to accommodation has not improved significantly. In 1995, 1112 Traveller families were living on the roadside without access to basic services; by 1999 this figure had increased to 1207 families. In the same period the numbers of Travellers living in Traveller specific accommodation has increased by 92 families, while an additional 270 families are accommodated in standard housing. The numbers living in Traveller specific accommodation in 1999 includes 271 families living on temporary sites. The recent Traveller survey referred to above confirms what Traveller organisations have been saying that the experience of living in temporary provision is often worse than being on the roadside without services.

In the last month the situation has deteriorated further. In April of this year, 2002, the government passed the Housing (Miscellaneous Provisions) Act, 2002, which if enacted would criminalize trespass on public and private land, which would lead to the criminalization of the 1,200 Traveller families on the roadside awaiting permanent accommodation. These families are being criminalized for living on the side of the road at a time when they have nowhere else to live. Travellers are also being criminalized if they attempt to practice their nomadic way of life. While the legislation does not name Travellers it is clearly directed against Travellers, Travellers who practice an aspect of their culture, i.e. nomadism and Traveller who have nowhere 'legitimate,' to place their trailers (caravans). This has been made clear by the focus and wording of the legislation itself as well as the language of politicians defending the act. We feel that this legislation is in breach of the spirit of equality legislation.

'ECRI recommends that the situation as regards the provision of accommodation should be closely monitored and measures taken as necessary to improve the implementation of the legislation in force. Furthermore, ECRI stresses that the powers afforded to local authorities to effect evictions from unauthorised campsites should be kept under close review in order to ensure that such powers are not misused, particularly in a situation where the accommodation possibilities available for Traveller families are not sufficient to meet the needs of this community.' (European Commission against Racism and Intolerance, Second Report on Ireland, published April 2002: page 23)

Apart from the legal implications of this legislation for Traveller families there are also serious implications and questions about the issue of social partnership and consultation between the state and community sector, in this case with Travellers and Traveller groups. This legislation was drawn up and developed at a time when Travellers were working in partnership with the government to examine the issue of illegal encampments, through a sub-committee of the monitoring committee of the Task Force. This committee had met seven times and was due to present its report shortly. A report that is now defunct, the work of the committee over ridden and ignored.

When word of the impending legislation reached the Traveller organisations, via a journalist it should be noted, an official from the Department of the Environment and Local Government, the sponsoring government department, after being questioned on the implications of this legislation for Travellers assured Pavee Point that there was, '*nothing in it that will impact adversely on Travellers.*' This is simply not true.

The state now has extensive powers to remove someone and their property from land, which includes the power to imprison, to confiscate trailers, i.e. a family's home and place heavy fines. A survey carried out by the Irish Traveller Movement between August 2000 and August 2001 found that 470 evictions of Traveller families had taken place in that twelve month period. Families who have nowhere to put their caravans are being criminalised at a time when the state has provided 111 out of a promised 2,200 units of accommodation since 1995.

Partnership and dialogue has also been undermined. Time and energy was spent in a process that had developed trust and good working relationships. The process has been undermined, questions have been raised about the government's commitment to social partnership, and on the eve of an election, it appears that anti-Traveller, i.e. racist legislation has been passed.

EDUCATION AND INTERCULTURALISM

To date the debate and actions in relation to Travellers and education has been centred on the numbers of Travellers participating in school. This has resulted in a significant increase in Traveller children attending primary school with the majority of Traveller children of primary school age registered in school. In recent years there has been an increase in the numbers of Travellers transferring to post primary school, however, very few Travellers remain after the second year of post-primary education, leaving school by the age of 15. While the increasing numbers of young Travellers remaining in education is to be welcomed, the continuing focus on *access* rather than education *outcomes* has resulted in significantly less progress in relation to the educational achievements of young Travellers.

In order to adequately tackle the poor outcomes for Travellers and Traveller children there is a need to develop and implement an intercultural education programme. It is not sufficient to treat interculturalism as a module within a civics programme or within any individual programme such as the (CSPE) Civil, Social and Political Education Programme, (a programme developed at junior cycle of second level), which is referred to in the Irish Governmental report. Interculturalism and anti-racism have to impinge on the ethos of the whole school, the whole curriculum, and every subject. In other words it is reflected as a value underlying the teaching of every subject and reflected both implicitly and explicitly in the teaching methods, text-books and course content. It thus brings to the foreground the contributions to the body of human knowledge made by a multitude of human cultures while also acknowledging and dealing appropriately with issues of power and racism.

Specific recommendations made in relation to Traveller education in the Task Force on the Travelling Community, 1995, have not been progressed or implemented to date, as reported in the Interim Report of the Monitoring Committee. In order to progress the outcomes from Traveller children, at a minimum these recommendations need to be progressed immediately, they include;

- The establishment of a Traveller Education Service.
- The Department of Education and Science to produce a Traveller Education Strategy.
- A review to be carried out and recommendations be made on the present use of additional resources for Traveller education.
- The appointment of the high level dedicated official within the Department of Education and Science as agreed in the Programme for Prosperity and Fairness.

It should also be noted that Traveller representatives have expressed concerns that three years after its establishment there is little evidence of the proposals they made on the Advisory Committee on Traveller Education being incorporated into the education service. This lack of progress is putting a question mark over the value of this process for Traveller groups.

HEALTH

The health status of Travellers remains extremely poor, both in terms of actual status and relative status. The most recently available statistics on Traveller health (1986) show that Travellers are expected to die twelve years younger than settled people and infant mortality rates are three times that of the settled community. The appalling conditions in which so many Travellers are forced to live, as well as an on-going lack of culturally appropriate provision are the major contributing factors to these health statistics.

In February 2002 the long awaited Traveller Health Strategy was launched. At this stage Pavee Point central concerns rest with the funding and implementation of this strategy, both of which need to be clearly outlined and timetabled, and inclusive of appropriate and effective monitoring processes. It is essential both for the health of Travellers and to gauge the government commitment re such fundamental an issue for minority ethnic groups that progress is made in relation to the implementation of this strategy and a consequential improvement in the health of Travellers.

In line with the health statistics the threat of loss of the 'medical card' presents a real barrier to Travellers accessing, training, educational and employment opportunities. Therefore, it should be recommended as a positive action measure that Travellers retain automatic access to the 'medical card' until their health statistics come in line with the majority population.

ECONOMIC ACTIVITY AND EMPLOYMENT

Areas of economic activity and employment traditionally occupied by Travellers, particularly scrap metal recycling, horse-trading and market trading are dwindling. The primary reasons for this have been restrictive legislation, which was not adequately poverty or equality proofed, (the Casual Trading Act, 1995 and the Control of Horses Act, 1996) restrictive accommodation provision (the local authorities refusal to provide work space beside accommodation space as is culturally appropriate) and economic growth (there is less of a market for recycled/second hand goods due to increased spending power nationally). While the

Traveller economy is extremely versatile, with Travellers involved in newer activities responding to some market driven changes as well as restrictions imposed by legislation, some Travellers who have remained economically active within the Traveller economy have their ability to generate income impeded, at a time of unprecedented growth in the Irish economy.

Outside of the Traveller economy, within the labour market, Travellers find it very difficult to access employment. Travellers are discriminated against both directly and indirectly. Direct discrimination, in the form of refusal to hire or provide services and indirectly because of the poor education, health and accommodation status of Travellers in general. (*Vacant Jobs...Job Vacancies Pavee Point 2002*)

Consequently, Travellers access to income generating opportunities within their own community have declined, while opportunities with the labour market have not replaced them, leaving many Travellers unemployed and living on social welfare. This has been the situation for a number of years, therefore the majority of Travellers who are unemployed are long term unemployed. The recent rapid growth in employment and economic development has barely altered this situation, Travellers are still excluded from the labour market. Innovative and supported strategies are required to develop Traveller access to training and labour market opportunities.

In order to promote Traveller inclusion into the labour market and develop income-generating opportunities, Pavee Point calls for the immediate advancement of the recommendations in the Task Force report 1995, as well as promote positive action measures, these include;

- The immediate establishment of a Task Force committee within the Department of Enterprise, Trade and Employment to advance the recommendation of the Task Force report, re employment and income generation.
- Reform of the tax and benefit systems to reduce poverty traps, particular in relation to Travellers, changes in the criteria for the medical card.
- The need to ensure that Traveller Community Employment and Local Training Initiatives remain funded to provide training, support and community development to those who may not be able to access the labour market due to both direct and indirect discrimination, including poor education status.
- The importance of the medical card cannot be overestimated for many Travellers, the poor health status, combined with larger families than the national average, result in a dependence on access to free health care. As a result, the potential loss of the medical card, which would result from employment, is a huge disincentive to many Travellers. The fear of losing the benefits provided by a medical card prevents Travellers from accessing employment and training opportunities, which results in the loss of access to a means of empowerment and access to progression out of a poverty trap.

TRAVELLER EMPOWERMENT

The report of the Task Force on the Travelling Community 1995 recognises the important role that Travellers and Traveller organisations play in overcoming the barriers to Travellers development. The report reinforces the need for Traveller involvement in the design, implementation and evaluation of policies that affect Travellers. Particular roles for Travellers and Traveller organisations were identified in relation to accommodation, education and health. While this approach is welcomed by Traveller organisations it also has resource implications.

The Government Community Employment programme that has being curtailed in light of the drastic reduction in unemployment in Ireland was an important source of resources for Traveller organisations. This funding allowed for Travellers to take up 'apprentice' community work roles within their community. The absence of this source of funding will have a long-term detrimental effect on Traveller organisations and result in the reduction of the numbers of Travellers coming through into professional positions in services to the Traveller community.

In order for effective Traveller empowerment and the Traveller inclusion in the design, implementation and evaluation of policies that affect Travellers, Traveller organisations and Travellers need to be resourced to participate. This includes time, personal and financial resources to support and train representatives and Travellers to participate in the myriad of consultation fora that have developed in recent years.

Apart from the support and resources that Travellers and Traveller organisations require to participate, crucially there needs to be a change in the ethos and approach in dealing with consultation and partnership. The power of decision making is what is at stake and unless that power is distributed to all of those participating in the process partnership does not exist. At present this is not the case, Travellers and the community sector are not equal partners and decisions are made against their will which fundamentally affect their lives and the lives of the communities they seek to represent.

DIVERSITY WITHIN THE TRAVELLER COMMUNITY

Whilst the many concerns and issues outlined above have a direct impact on the lives of all Travellers, some groups of Travellers experience particular levels of marginalisation, discrimination and prejudice.

Traveller women, for example continue to experience extreme levels of exclusion and racism. Gender impact statements in relation to equality, anti-racist and other policies of relevance to Traveller women are required at local, national and international level in order to ensure that efforts to address racism take account of the particular reality of Traveller women's lives.

Specific data on Traveller women's access to health, education and other services are required in order to ensure that policies are developed in line with the experiences and needs of Traveller women. In addition,

targeted resources should be made available to undertake research on the specific needs of Traveller women in a range of areas.

The unavailability of culturally appropriate childcare remains a constant and considerable barrier to Traveller women's access to education, training and employment. Traveller women regularly cite instances of being discriminated against when trying to access crèches and other child minding facilities.

The issue of institutional violence against Traveller women and poor treatment by the Gardaí remains to be addressed. Forced evictions have a particular impact on Traveller women as they are frequently alone or with children at the time of evictions. An Garda Síochána should develop and adopt, in association with Traveller women's groups, a code of practice in relation to their contact and dealings with Traveller women.

For Travellers with a disability, the situation has improved little in recent years. There is a clear need for the development of culturally appropriate service provision for Travellers in residential care. The speedy publication and implementation of the Traveller health strategy is of crucial importance to Travellers with a disability in order to begin to address their particular concerns.

THE TRAVELLER CHILD

The lack of information about Traveller children is particularly revealing and research to provide basic information about Traveller childhood in Ireland is needed as a matter of urgency. Traveller children represent a minority within a minority and suffer all the ill effects of inadequate accommodation, poor living standards and discrimination that the community as a whole experiences. From the limited and outdated information available, we know that Traveller children are especially vulnerable to ill health and poor physical development. Access to pre-school services is very inadequate, although some 4,300 Traveller children (or 90%) of the primary school age group are currently attending school. Equitable participation at primary level is another matter, however, and statistics show that most Traveller children do not continue to participate in secondary level education², let alone beyond. Participation is about much more than attendance, however, and these children need acknowledgment, understanding and support to access a curriculum, which was developed from a majority perspective.

Outside the school context, Traveller children have grossly inadequate and unsafe spaces to play, and experiences of accident and injury are commonplace. These factors combined, amount to considerable experience of disadvantage early in life. Irish society still has a long way to go in embracing the Traveller child in its service provision as 'dominant' attitudes prevail at both personal and institutional levels.

² Department of Education and Science Press Release, 20th September 2000.

Recognition of Nomadism as a valid way of life has tended to be viewed only as detrimental to the child's physical well-being and as a barrier in accessing school. Settlement has been viewed as a legitimate way to educate Traveller children out of their way of life. The needs of children have been viewed in terms of normative models of childhood, and culturally appropriate and more inventive forms of service provision compatible with the nomadic life of families and children are often not considered.

Traveller parenting is often described in inadequate terms despite the fact that Traveller parents have great affection for their children. Working within the extended family is vital and the key to Traveller identity, and family identity usually takes priority over individual identity. A Traveller name immediately identifies 'the Traveller' within a family grouping. Large families are common although they are decreasing in size in recent years. Children, and in particular infants, hold a special place within the family unit.

CONCLUSION

While there have been many developments in the fight against racism and intolerance, directed at Travellers and other minority ethnic groups in Ireland in recent years, as of yet these developments have had minimal impact on the daily lives of Travellers. Travellers continue to experience high levels of both direct and indirect discrimination.

The day to day life experience of Travellers is that there are more Travellers living on the side of the road with poor facilities including water, electricity and sanitation, now than ten years ago. Traveller health status has not improved and the educational experience of many young Travellers remains negative.

The State as outlined in its own report does not have any laws preventing or prohibiting Travellers from accessing services and goods and that Travellers have rights as Irish citizens including the right not to be discriminated against. Prohibition against direct acts of discrimination is one aspect of the protection of minorities but alone does not amount to the protection of Traveller rights. Traveller's rights to be Travellers are not protected. Their culture and identity is not protected, supported or nourished in fact, while direct acts of discrimination are outlawed Travellers and Traveller culture is constantly undermined with poor education, health and accommodation and indirect acts of discrimination.

Pavee Point is of the opinion that there is an urgent need to address both the ongoing direct and indirect discrimination that Travellers experience and to progress the recommendations and legislation made in relation to policy and service provision that affects Travellers, such as those contained in the Task Force Report, 1995 and the Housing (Traveller Accommodation) Act, 1998, and those referred to in the government report. Therefore;

- In order to go some way to challenge discrimination there is a need for a Ombudsman for Travellers, through whom challenges can be taken in relation to discrimination and poor service provision.

- The current mechanisms to progress recommendations in the Task Force, such as the Monitoring Committee are not effective. Therefore, there is a need for an independent agency, with statutory responsibility and capacity, to forward this recommendations, and ensure that the Task Force and other recommendations that are specifically addressing the needs of Travellers and implemented in a timely and appropriate fashion.

Travellers, as an Irish minority ethnic group are not protected in Ireland.